

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

FILED

JUL 21 2005

MICHAEL W. DOBBINS, CLERK
UNITED STATES DISTRICT COURT

U. S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION)
)
Plaintiff,)
)
SUSAN BRENNEKA, ERIN FOSTER ,)
CHRISTINA JAVID, VICKI MINER,)
AND TRACEY RANGEL,)
)
Plaintiffs-Interveners,)
)
v.)
)
THE BLOOMIN' APPLE ROCKFORD I,)
LLC, THE BLOOMIN' APPLE, LLC, and)
HEARTLAND APPLE, INC.)
)
Defendants.)

CIVIL ACTION NO 04 C 50375

JUDGE REINHARD

AGREED PROTECTIVE ORDER

This matter came before the Court pursuant to Rule 26(c) of the Federal Rules of Civil Procedure for the entry of a Protective Order governing the disclosure of documents and information pertaining to confidential matters. It appears to the Court that entry of this Order is appropriate.

In order to preserve and maintain the confidentiality of certain documents and information to be produced in this litigation, The Bloomin' Apple Rockford I, LLC, The Bloomin' Apple LLC, and Heartland Apple Inc. ("Applebee's") and the Equal Employment Opportunity Commission ("EEOC") and the Plaintiff-Interveners, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, have hereby agreed and stipulated as follows:

1) The term "Confidential Information" is defined as any of the following types of information:

- a) social security numbers,
- b) unlisted home address and telephone numbers,
- c) physical and mental health information,
- d) trade secrets as defined by the Illinois Trade Secrets Act; and
- e) income tax records for all former and current Applebees employees, including class members.

- f) 2000 Profit & Loss for the Bloomin' Apple, LLC - Bates D1964
- g) 2001 Profit & Loss for the Bloomin' Apple, LLC - Bates D1965
- h) 2002 Profit & Loss for the Bloomin' Apple, LLC - Bates D1966
- i) 2000 Profit & Loss for Applebee's 1208 - Bates D1967
- j) 2001 Profit & Loss for Applebee's 1208 - Bates D1968
- k) 2002 Profit & Loss for Applebee's 1208 - Bates D1969
- l) 2003 Income Statement for The Bloomin' Apple, LLC 1208 - Bates D1970-73
- m) 2002 Tax Return for the Bloomin' Apple, LLC - Bates D1974-2023
- n) 2003 Tax Return for The Bloomin' Apple LLC - Bates D2024-2150
- o) The Bloomin' Apple L.L.C. Administrative Manual - Bates D1775-1958
- p) The Bloomin' Apple L.L.C. Personnel Manual - Bates D1781-1840
- q) The Bloomin' Apple L.L.C. Employee Handbook - Bates D1841-1874
- r) The Bloomin' Apple L.L.C. Accounting Manual - Bates D1875-1914
- s) Human Resource Health and Life Insurance Information - Bates D1915-1946

- t) Forms - Bates D1947-1958
- u) Personnel Records - Bates D1-451, D546-1772, D02151-2283, E1899-2581
- v) 2003 Financial Statements for Bloomin' Apple LLC- Bates 2284-2285
- 2) The term "Confidential Document" refers to a document that contains any of the above types of information defined as "Confidential Information."
- 3) As used herein, "disclosure" or "to disclose" shall mean to divulge, reveal, describe, summarize, paraphrase, quote, transmit, or otherwise communicate Confidential Information.

Restriction on Use of Confidential Information

- 4) During the pendency of this litigation, Confidential Information shall be retained solely in the custody of the parties' attorneys and shall not be placed in the possession of or disclosed to any other person, except as set forth in paragraph 5 below, as otherwise agreed upon by the parties, or upon leave of Court.
Confidential Information shall be utilized only for the purpose of this litigation (including any appeals).
- 5) Confidential Information protected by this Order shall not be disclosed in any manner, directly or indirectly, to any persons except as follows, provided that any such person agrees to abide by the terms and conditions of this Order:
 - a) Confidential Information may be used by the parties, class members, their attorneys, legal interns, and clerks, paralegals, secretaries, and other support staff in the employ of or retained by such parties or attorneys for the purpose of this litigation;
 - b) Confidential Information may be used in all pretrial discovery proceedings, such as depositions, and may be filed in Court, such as in

support of or in opposition to summary judgment, or other motions without limitations other than those set forth in paragraph 6 or by order of Court;

c) Confidential Information may be reviewed by an expert witness or consultant expressly employed or retained by counsel or a party to this litigation to whom it is necessary to disclose Confidential Information for the purpose of prosecuting or defending this litigation;

d) Confidential Information may be used for motions, at trial, and on appeal of this case, without limitations other than those set forth in paragraph 6 or by order of Court;

e) Confidential Information may be disclosed to a court reporter during the course of a deposition.

- 6) Should Confidential Information become the subject matter of a pleading, motion, or other court filing, either party may seek leave, upon further order of the Court and for good cause shown, to file such Confidential Information under seal. No document or part of a document shall be filed under seal without Court approval, and in the event that a document or part of a document is filed under seal, the filing party shall also prepare a public version of the document with the Confidential Information redacted. A filing party desiring to use the other party's Confidential Information shall give the other party sufficient time to comply with the Court's notice of motion requirements to file a motion seeking leave to require the Confidential Information to be filed under seal. If notice to the other side is impractical under the circumstances, the filing party will take reasonable

precautions to exclude Confidential Information or discussion of the particulars of such material until an Order of the Court regarding the filing of the material is issued. Documents shall be filed under normal Court procedures if the Confidential Information listed in paragraph 1 has been redacted or otherwise removed from the document.

Designation

- 7) A document or portion of a document that a party determines in good faith to contain Confidential Information as defined in paragraph 1 may be designated as Confidential by (1) stamping the word "CONFIDENTIAL" on the document, (2) otherwise indicating that it contains Confidential Information, (3) employing other means provided by this order, or (4) using any other reasonable method agreed upon by the parties.
- 8) A party, may on the record of a deposition or oral hearing or by written notice to opposing counsel not later than fourteen (14) days after receipt of the transcript of such deposition or oral hearing, designate any portion(s) of the deposition as confidential if the party determines in good faith that the designated portion(s) contain(s) Confidential Information as defined in paragraph 1. Until expiration of the above fourteen (14) day period, all transcripts will be deemed "Confidential Documents" under this Protective Order and information therein will be deemed "Confidential Information" under this Protective Order unless otherwise agreed to in writing by the parties. After expiration of this period, any portion of a transcript that has not been designated as Confidential shall not be subject to this Protective Order.

- 9) Nothing shall prevent disclosure of Confidential Information beyond the terms of this Order if all parties consent to such disclosure, or if the Court, after notice to all affected parties, permits such disclosure.
- 10) If any party wishes to disclose any Confidential Information beyond the terms of paragraphs 5 or 6 of this Order, that party shall provide all other parties with reasonable notice in writing of its requests to disclose the materials. If the parties cannot resolve their disagreement with respect to the disclosure of any Confidential Information or Confidential Documents, then a party may petition the Court for a determination of these issues. Such Confidential Information or Confidential Documents shall remain confidential as stipulated by this Order until the Court rules on the party's specific petition.

Miscellaneous

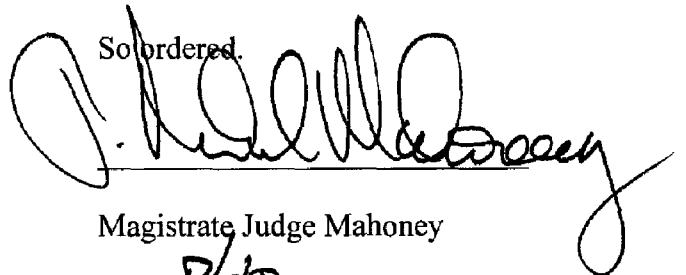
- 11) This Order does not limit the right of any party to object to the scope of discovery in this case.
- 12) This Order does not constitute a determination of the admissibility or evidentiary foundation for the documents or a waiver of any party's objections thereto.
- 13) Upon the final completion of the litigation (including any appeals) the parties shall, upon request, return to each other or destroy all copies of Confidential Documents. The obligations to keep Confidential Information copied from documents confidential shall continue after the completion of this case.
- 14) The designation of documents or information as Confidential Information or as Confidential Documents shall not be construed as a waiver of any applicable privilege or other immunities from discovery (including without limitation the

attorney-client privilege and the attorney work product doctrine) or as a concession by the designating party that such information is relevant or material to any issue or is otherwise discoverable. The inadvertent disclosure by any party of Confidential Information or any Confidential Documents shall not be deemed a waiver in whole or in part of that party's or any other party's obligations under this Order.

- 15) This Order also shall not prevent the parties from discussing possible redaction of documents and information produced or from petitioning the Court as appropriate with respect to any such redaction.
- 16) This Order shall continue indefinitely during and after this litigation, unless modified or terminated by order of this Court.

17) The restrictions set forth in any of the preceding paragraphs shall not apply to Confidential Information that was, is, or becomes public knowledge in a manner other than by violation of this Order.

So ordered.

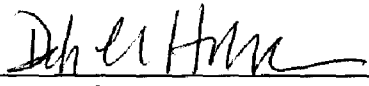


Magistrate Judge Mahoney

Dated: 7/20, 2005.

AGREED:

PLAINTIFF U.S. EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION


By: 
One of Its Attorneys

Dated: 7/14/05

Laurie Elkin
Deborah Hamilton
Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street
Suite 2800

AGREED:

DEFENDANTS THE BLOOMIN' APPLE
ROCKFORD I, THE BLOOMIN' APPLE,
LLC., HEARTLAND APPLE, INC.

By: 
One of Its Attorneys

Dated: 7/14/05

Thomas M Wilde
Vedder Price
222 N. LaSalle St.
Chicago, IL 60601

AGREED:

SUSAN BRENNEKA, ERIN FOSTER,
CHRISTINA JAVID, VICKI MINER, AND
TRACEY RANGEL

By:  7-14-05

Rene Hernandez
Law Offices of Rene Hernandez
1625 E. State St.
Rockford, IL 61104

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing were served on

Ms. Laurie S. Elkin
Equal Employment Opportunity Commission
Suite 2800
500 W. Madison Street
Chicago, IL 60661

Mr. Rene Hernandez
Law Offices of Rene Hernandez
1625 E. State Street
Rockford, IL 61104

by depositing the same in the U.S. mail, first-class postage prepaid, at 222 North LaSalle Street,
Chicago, Illinois 60601-1003 by 5:00 p.m. on July 18, 2005.